

What's New

News Flash



July 2017

CBDT clarifies that no tax is required to be withheld under Chapter XVII-B of the Act on the component of 'GST on services' if it is indicated separately in the amount payable to a resident

Background

The Central Board of Direct Taxes (CBDT) had previously issued Circular No. 01/ 2014 dated 13 January, 2014, which clarified that where in terms of agreement between the payer and the payee, the service tax component in the amount payable to a resident is indicated separately, no tax was required to be withheld on such Service Tax component.

With effect from 1 July, 2017, the government has introduced the Goods and Service Tax (GST) regime replacing amongst others, service tax, which was charged prior to 1 July, 2017.

Various representations were made to CBDT seeking clarification regarding the withholding of tax on the GST component on service remuneration.

Clarification by the CBDT

Following such representations by the industry, the CBDT *vide* Circular No. 23/ 2017 dated 19 July, 2017, to harmonise the content of the earlier circular with the new GST regime, has clarified the following:

- Wherever in terms of the agreement between the payer and payee, the component of 'GST on Service' comprised in the amount payable to a resident is indicated separately, tax shall be withheld under Chapter XVII-B of the Income tax Act, 1961 (the Act) on the amount paid or payable without including 'GST on service' component. In other words, tax shall be required to be withheld **only** on the amount paid or payable without including such 'GST on services' component.
- GST for this purpose shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.
- Any reference to "Service Tax" in an existing agreement or contract entered prior to 1 July, 2017 shall be treated as "GST on services" with respect to period from 1 July, 2017 onwards until the expiry of such agreement or contract.

Key takeaway

The above circular is a welcome step in clarifying the position that no income-tax shall be withheld on payments made to residents in respect of GST component on services rendered. This will have a positive impact on reducing the prevailing ambiguity in the industry.

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